



CHOATE LAW FIRM LLC
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lawyers@choatelawfirm.com

January 6, 2006

Faxed Only to: (206) 622-7485

James Dickens
Miller Nash LLP
4400 Two Union Square
601 Union Street
Seattle, WA 98101-2352

Re: Deposition of Myrna Johnson & Others – Week of January 23, 2006
Case: *Johnson, Myrna v Fred Meyers* [23003]
Client: Myrna Johnson
CLF: 23003
D/O: 03/18/2002

Dear Mr. Dickens:

This letter responds to your letter of January 5, 2006. Myrna Johnson will be available for deposition at my office on Monday, January 23, 2006 at 9:00 a.m. I would like to follow her deposition with the following individuals here in Juneau:

- 1) Jaime San Miguel
- 2) Fred Sayre;
- 3) Delores Doogan;
- 4) Julita Lim;
- 5) Jeff Smith.

Since Fred Sayre is no longer employed by Fred Meyer, I will have a subpoena issued for his appearance at deposition. I recommend that you stay at the Baranof Hotel on N. Franklin Street in downtown Juneau. It is about a block and a half from my office and is the best hotel in town. Unless you need to travel to the Valley, there's no need for a car if you're staying downtown and working downtown as well. Finally, we will contact Glacier Stenographic Reporters, the only court reporters, and arrange for them to be available for the entire week.

We need to calendar Joanna Havard's deposition in Fairbanks as well as some 30(b)(6) and management depositions in Portland of Fred Meyer management personnel. Please let me know your general availability for those depositions in February or early March.

Exhibit A
page 1 of 2

James Dickens – Page 2

January 6, 2006

In terms of file materials, I do not have Mr. San Miguel's employment file from Fred Meyer. I believe it is both relevant and the type of document that would normally be produced through Initial Disclosures. Would you please provide it to me as soon as possible? If you will not, please let me know the reasons for withholding it.

I look forward to meeting you on the 23rd.

Sincerely,



Mark Choate
CHOATE LAW FIRM, LLC

cc: Client



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February 14, 2006

James Dickens
Miller Nash LLP
4400 Two Union Square
601 Union Street
Seattle, WA 98101-2352

Faxed Only to: (206) 622-7485

Peter Gruenstein
Gruenstein & Hickey
Resolution Plaza
1029 W. 3rd Avenue, Suite 510
Anchorage, AK 99501

Faxed Only to: (907) 258-4350

Re: Management Depositions/Outstanding Discovery
Case: *Johnson, Myrna v Fred Meyers [23003]*
Client: Myrna Johnson
CLF: 23003
D/O: March 18, 2002

Dear Counsel:

Consistent with my earlier discussions with Jim, we need to take depositions of management personnel and complete in remaining fact witness depositions. I want to depose the following individuals who appear to have been involved in some fashion with the supervision of Myrna Johnson: Dennis Afflect, Ken Haverkost, Jim Hill and Mary Lucas. I can take those depositions any time in March (with the exception of March 3rd) so long as we have received complete responses to plaintiff's First Request for Production of Documents (dated January 5, 2005) and our Second Request for Production of Documents dated February 14, 2006 (attached).

Please advise at your earliest convenience as to the best dates for these depositions. I can bring Russell Johnson up from Sacramento to be deposed in the same deposition round.

Sincerely,

Mark Choate
CHOATE LAW FIRM, LLC

ENCLOSURE: Plaintiff's Second Request for Production of Documents

Exhibit 8
page 1 of 1



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February 23, 2006

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Faxed Only to: (907) 258-4350

Re: Request for Response to February 14, 2006 Letter
Case: *Johnson, Myrna v Fred Meyers [23003]*
Client: Myrna Johnson
CLF: 23003
D/O: March 18, 2002

Dear Counsel:

I've not received a response to my letter dated February 14, 2006. Would you please let me know when I may expect discovery responses as well as provide me with some proposed deposition dates. I am beginning to fill up my March calendar and would note that the first two weeks have filled up but continue to be available from March 13 to the end of the month. I don't want to have to schedule depositions unilaterally and look forward to hearing from you regarding my request for deposition dates and discovery responses.

Sincerely,

Mark Choate
CHOATE LAW FIRM, LLC

cc: Client

Exhibit C
page 1 **of** 1

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FEB 27 2006

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James R. Dickens
jim.dickens@millernash.com

February 24, 2006

VIA FACSIMILE (907) 586-6633 & U.S. MAIL

Mark Clayton Choate
Choate Law Firm LLC
424 North Franklin Street
Juneau, AK 99801

Subject: *Johnson v. Fred Meyer*

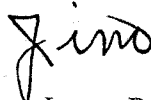
Dear Mark:

I was out of the office for ten days and just saw your February 14, 2006, letter yesterday when your February 23, 2006, letter arrived. I have asked Fred Meyer to check on the availability of the four people you listed, and tell me where they are. I do know that two of those people (Jim Hill and Mary Lucas) no longer are at Fred Meyer and, I believe, live in Oregon. I should have information today or Monday on the other two and will get back to you.

As for depositions in March, it does not appear to be possible now as my calendar has filled up. I have out-of-town depositions the week of March 6, an arbitration the week of March 20, and then I am out of the office again for two weeks starting on March 27. My April calendar is much better starting with the week of April 10.

I am also checking on the discovery responses. I will advise.

Very truly yours,



James R. Dickens

cc: Peter Gruenstein

DICKENS:gsf
File No.: 502470-0074
Doc ID: SEADOCS:197137.11

Exhibit D
page 1 of 1



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February 27, 2006

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Faxed Only to: (206) 622-7485

Peter Gruenstein
Gruenstein & Hickey
Resolution Plaza
1029 W. 3rd Avenue, Suite 510
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Faxed Only to: (907) 258-4350

Re: Depositions/Discovery
Case: *Johnson, Myrna v Fred Meyers [23003]*
Client: Myrna Johnson
CLF: 23003
D/O: March 18, 2002

Dear Counsel:

Let's plan to take the depositions of the management personnel I identified in my earlier correspondence the week of April 10, 2006 as that is the first week that Jim is available. I assume they'll be in Portland and can take them either at Fred Meyer headquarters or at a court reporter's office. Please let me know which you prefer.

I should have received good discovery responses to our two outstanding sets of discovery from you well before then so this timing should work out fine. Please let me know if you want me to have Russell Johnson come up to Portland on Friday, April 14 for his deposition.

Sincerely,

Mark Choate
CHOATE LAW FIRM, LLC

cc: Client

Exhibit E
page 1 of 1



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March 8, 2006

James Dickens
Miller Nash LLP
4400 Two Union Square
601 Union Street
Seattle, WA 98101-2352

Peter Gruenstein
Gruenstein & Hickey
Resolution Plaza
1029 W. 3rd Avenue, Suite 510
Anchorage, AK 99501

Re: Past Due Discovery (Meet and Confer) - Upcoming Management
Depositions
Case: *Johnson, Myrna v Fred Meyers [23003]*
Client: Myrna Johnson
CLF: 23003
D/O: March 18, 2002

Dear Counsel:

I hand-delivered to Jim Dickens on January 24, 2006 a copy of *Plaintiff's First Requests for Production of Documents Addressed to Defendant Jaime San Miguel*. Those Requests were originally served by Ms. Fredericks on January 3, 2005. I expected a response by this time and have neither received the requested discovery nor a request for any extension of time to respond to those year old requests. Please consider this request our formal meet and confer on these past due outstanding discovery requests.

In addition, I served on February 15, 2006, *Plaintiff's Second Requests for Production of Documents to Defendants Dated February 14, 2006*. Please advise if there is going to be any delay in receiving them within the normal 30 day time period allowed by the FRCP.

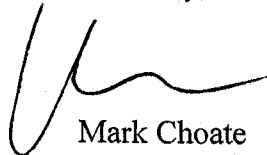
Consistent with my earlier letters, please find enclosed deposition notices for Dennis Afflect, Ken Haverkost, Jim Hill and Mary Lucas for the week of April 10, 2006. I will issue subpoenas for Jim Hill and Mary Lucas as you have indicated they no longer work for your client.

Exhibit F
page 1 of 2

– Page 2
March 8, 2006

I look forward to receiving the requested discovery and seeing Jim in Portland the week of April 10, 2006.

Sincerely,



Mark Choate
CHOATE LAW FIRM, LLC

cc: Client

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James R. Dickens
jim.dickens@millernash.com

March 9, 2006

VIA FACSIMILE (907) 586-6633 & U.S. MAIL

Mark Clayton Choate
Choate Law Firm LLC
424 North Franklin Street
Juneau, AK 99801

Subject: *Johnson v. Fred Meyer*

Dear Mark:

I have been out of town several days over the past week and am now reviewing correspondence recently received from you.

Your letter dated February 27, 2006, was faxed to us yesterday, March 8, 2006. It has two separate deposition notices. One is a notice for Rule 30(b)(6) depositions of possibly several people (many of whom most likely are in Juneau) and set for Monday, April 10, 2006, in Portland. The second is a deposition notice for four witnesses. Two witnesses are set for Tuesday, April 11, with Dennis Afflect at 9 a.m. and Ken Haverkost at 1 p.m. Then there are two additional depositions set for Wednesday, April 12, at 9 a.m. for Jim Hill and 1 p.m. for Mary Lucas. A separate letter dated March 9, 2006, was faxed to us today asking for the full legal names for Ms. Lucas and Mr. Hill so you could subpoena them.

We received another letter dated March 8, 2006, inquiring about plaintiff's first requests for production addressed to defendant Jaime San Miguel, which you state were served by Ms. Fredericks on January 3, 2005, and then plaintiff's second request for production of documents dated February 14, 2006, which you state were served February 15, 2006.

I will be on vacation in Hawaii the weeks of March 27, 2006, and April 3, 2006. I would prefer not having depositions at the very beginning of the first week I am back, as the Rule 30(b)(6) depositions are noted for April 10, 2006, particularly when those are out of town. Let me offer the following suggestions:

1. If the witnesses are available, we will go with April 11 and April 12 for the four depositions you have noted. I am checking with the witnesses on their availability and

Exhibit G
page 1 of 2

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A T T O R N E Y S A T L A W

Mark Clayton Choate
March 9, 2006
Page 2

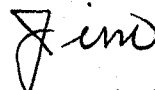
will advise next week. But I request that the Rule 30(b)(6) depositions be put over to Thursday, April 13.

2. Let's have the depositions in our Portland offices. They are not too far from Fred Meyer and we have large conference rooms for taking depositions and the court reporters are familiar with our offices.

3. I will attempt to get in touch with Jim Hill and Mary Lucas and ask them to appear on Wednesday, April 12, 2006, at the times you have requested. If they cannot do it then, or will not appear without a subpoena, I will promptly advise.

With regard to the requests for production of documents to Mr. San Miguel and to Fred Meyer, we are working on those. Mr. San Miguel is on vacation and has not been in Juneau this past week. We cannot touch base with him until next week when he returns, but we will promptly ascertain the information available and provide it to you. Fred Meyer also is working on the more recent second requests for production and we will do what we can to provide appropriate responses by Friday, March 17, 2006. If there is going to be an issue with that date, I will be in touch and request an extension. But we will do whatever we can to get discovery responses to you prior to my last day in the office on March 24, 2006. This will give you at least two weeks to review and prepare for the depositions.

Very truly yours,



James R. Dickens

cc: Peter Gruenstein

DICKENS:gsf
File No.: 502470-0074
Doc ID: SEADOCS:197137.12

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James R. Dickens
jim.dickens@millernash.com

March 21, 2006

VIA FACSIMILE (907) 586-6633 & U.S. MAIL

Mark Clayton Choate
Choate Law Firm LLC
424 North Franklin Street
Juneau, AK 99801

Subject: *Johnson v. Fred Meyer* – discovery responses/depositions

Dear Mark:

We will be sending you tomorrow many documents from Fred Meyer in response to plaintiff's requests for production of documents. We will e-mail you the discovery pleading responses, but the documents themselves will be delivered separately.

With regard to the depositions that you have tentatively set in Portland, a couple of points. First, I have not heard back as to whether those depositions may be set for our Portland offices instead of the court reporter's offices. Please let me know.

Second, in checking with the witnesses we have to make a couple of adjustments because of their schedules. Ken Haverkost is currently on business in the Far East, and then after his return he will be on vacation for two weeks and will not be back in Oregon until Wednesday, April 12, 2006. Therefore, the earliest he can be available is Thursday, April 13, 2006, although because of his current business trip I have been unable to even touch base on whether that date will work for him or whether it would need to be Friday, April 14.

Mary Lucas will make herself available voluntarily, but she has some conflicts due to her current work schedule as and she is out of state on Wednesday, April 12, 2006. She is available early in the morning on Tuesday, April 11, 2006, so I have tentatively told her to be available that day. Dennis Affleck can be available on Tuesday, April 11, in the afternoon if that will work on your schedule.

Jim Hill will make himself available voluntarily in Portland and is more flexible on time because he is retired. You could depose him later in the afternoon on Tuesday, April 11, or any time on Wednesday, April 12.

Exhibit H
page 1 of 2

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Mark Clayton Choate
March 21, 2006
Page 2

As for the Rule 30(b)(6) depositions, about the only one where there will be someone to testify who is in Portland will be someone to discuss the computer issues. We are checking on that but I currently am assuming that person will be available on Wednesday, April 12, 2006.

In sum, this is what I have as a tentative schedule given people's schedules:

Tuesday, April 11, 2006:

Mary Lucas – 9:00 a.m.

Dennis Affleck – 1:00 p.m.

Wednesday, April 12, 2006:

Jim Hill – 9:00 a.m.

Rule 30(b)(6) witness – 1:00 p.m.

Thursday, April 13, 2006:

Ken Haverkost – 11:00 a.m.

Please let me know on these dates. As I mentioned earlier, I will be out of the office on vacation for two weeks starting March 27, so I need to confirm these times and people this week if at all possible.

Very truly yours,



James R. Dickens

cc: Peter Gruenstein

DICKENS:gsf
File No.: 502470-0074
Doc ID: SEADOCS:197137.13

Exhibit H
page 2 of 2



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April 4, 2006

James Dickens
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Peter Gruenstein
Gruenstein & Hickey
Resolution Plaza
1029 W. 3rd Avenue, Suite 510
Anchorage, AK 99501

Re: Missing Responses to Plaintiff's Second Requests for Production Dated
February 14, 2006
Case: *Johnson, Myrna v Fred Meyers [23003]*
Client: Myrna Johnson
CLF: 23003
D/O: March 18, 2002

Dear Counsel:

In reviewing our records, I do not see a response to our Second Requests for Production dated February 14, 2006. They were due in mid-March. I need those responses in order to prepare for the depositions scheduled next week. Please advise me at your earliest convenience as to when they were sent or when I may expect them. Thanks.

Sincerely,

Mark Choate
CHOATE LAW FIRM, LLC

ENCLOSURE: Plaintiff's Second Requests for Production...dated February 14, 2006

cc: Client

Exhibit I
Page 1 of 1



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April 4, 2006

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Peter Gruenstein
Gruenstein & Hickey
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Anchorage, AK 99501

Re: Russell Johnson Deposition
Case: *Johnson, Myrna v Fred Meyers* [23003]
Client: Myrna Johnson
CLF: 23003
D/O: March 18, 2002

Dear Counsel:

This letter responds to Jim's request that I make Russell Johnson available during the same week as the management depositions in Portland. I'm more than willing to do that and assuming we go forward next week, I'll bring him to Portland to be deposed on Friday.

The caveat here is that I don't have responses to our Second Requests for Production which request important documents first identified at our last round of depositions. I'll need them in order to go forward next week so hopefully they're either on the way or will arrive this week.

Sincerely,

Mark Choate
CHOATE LAW FIRM, LLC

cc: Client

Exhibit J
page 1 of 1

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Susan K. Stahlfeld
susan.stahlfeld@millernash.com

April 5, 2006

VIA FACSIMILE AND EXPRESS MAIL

Mark Clayton Choate
Choate Law Firm LLC
424 North Franklin Street
Juneau, AK 99801

Subject: *Johnson v. Fred Meyer*

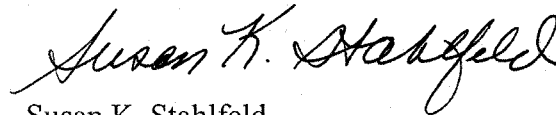
Dear Mr Choate:

In response to your recent correspondence, Jim Dickens is out of the office this week, and I am attempting to ascertain what has been produced and what remains to be produced.

Enclosed are supplemental discovery responses to plaintiff's first requests for production of documents (documents are being sent via overnight delivery). Most of these documents are also responsive to plaintiff's second requests for production. Our client is continuing to seek additional responsive documents, and if any are found we will forward them to you.

Thank you for your courtesies in this matter.

Very truly yours,



Susan K. Stahlfeld

Encs.

cc: Peter Gruenstein

STAHLFELD:gsf
File No.: 502470-0074
Doc ID: SEADOCS:197137.15

Exhibit K
page 1 of 1



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April 6, 2006

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Susan K. Stahlfeld
Miller Nash LLP
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Re: Meet & Confer - Rescheduling of Depositions
Case: *Johnson, Myrna v Fred Meyer* [23003]
Client: Myrna Johnson
CLF: 23003
D/O: March 18, 2002

Dear Counsel:

This letter responds to Ms. Stahlfeld's letter of April 5, 2006 and is our formal request for a conference to meet and confer regarding:

- 1) The defendants' failure to confirm the availability of FRCP 30(b)(6) deponents for deposition next week; and
- 2) The defendants' failure to timely produce a response to Plaintiff's Second Requests for Production dated February 14, 2006.

We gave notice on February 14, 2006 of our intention to take management depositions and simultaneously requested responses to Plaintiff's First Requests for Production and served Plaintiff's Second Requests for Production.

Exhibit L
page 1 of 2

– Page 2
April 6, 2006

Subsequently, we were informed by Mr. Dickens that he was unavailable for depositions in March but would be available the week of April 10, 2006. We were also assured we would receive complete discovery responses by March 26, 2006.

We have received no response to our very specific Second Requests for Production dated February 14, 2006. That discovery requested the production of documents identified in the depositions of Mr. San Miguel and Mr. Sayre taken in late January. It is now April 6, 2006, with only a day and a half of the business week before I must travel for next week's scheduled depositions and I have received *no* responses to those requests other than Ms. Stahlfeld's vague assertion that "documents are being sent via overnight delivery." In addition, I have not received confirmation that Fred Meyer will produce 30(b)(6) deponents for each of the areas of inquiry identified in our 30(b)(6) Notice.

The defendants' failure to respond to our discovery requests in a timely fashion and to confirm the availability of 30(b)(6) deponents makes it impossible to proceed with the scheduled depositions. We will need to reschedule for a date no less than ten (10) working days after I receive the requested discovery and confirmation that Fred Meyer will produce 30(b)(6) deponents for all identified areas of inquiry.

If I do not receive the requested discovery and confirmation by April 14, 2006, I will file a Motion to Compel Production with the Court. In addition, I reserve the right to request that the Court extend the close of discovery because of these delays.

Sincerely,



Mark Choate
CHOATE LAW FIRM, LLC

cc: Client

Exhibit L
page 2 of 2

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APR 13 2006
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James R. Dickens
jim.dickens@millernash.com

April 12, 2006

VIA EXPRESS MAIL

Mark Clayton Choate
Choate Law Firm LLC
424 North Franklin Street
Juneau, AK 99801

Subject: *Johnson v. Fred Meyer*

Dear Mark:

Enclosed with this letter are four separate discovery requests. They include:

1. Defendant's second requests for production of documents to plaintiff;
2. Fred Meyer's second supplemental response to plaintiff's first request for production of documents (document nos. 201027-201173);
3. Mr. San Miguel's response to the first set of requests for production of documents to him; and
4. Fred Meyer's response to plaintiff's second request for production of documents (document nos. 201459-202412).

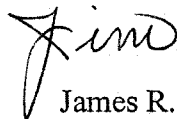
I received your notice cancelling the depositions previously set for this week in Portland. I do not know whether these documents are relevant to those depositions but your call. We currently have a tight time frame for completion of discovery, which is April 28, 2006. Per Local Rule 16.1(c)(3)(A), however, the parties may stipulate to a two-month extension of the close of discovery. Please advise me if you would like a two-month extension of the date for the close of discovery. Fred Meyer now has produced for you over 2000 documents from its local

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ATTORNEYS AT LAW

Mark Clayton Choate
April 12, 2006
Page 2

and corporate office files and records, which should provide an adequate basis for addressing any possible issues or deposing additional witnesses. Accordingly, please advise me if you are proposing to re-note the cancelled depositions.

Very truly yours,



James R. Dickens

Encs.

cc: Peter Gruenstein
Fred Meyer

DICKENS:gsf
File No.: 502470-0074
Doc ID: SEADOCS:197137.15



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April 17, 2006

James Dickens
Miller Nash LLP
4400 Two Union Square
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Seattle, WA 98101-2352

Re: Receipt of Discovery, Management Depositions - Extension of
Discovery
Case: *Johnson, Myrna v Fred Meyers [23003]*
Client: Myrna Johnson
CLF: 23003
D/O: March 18, 2002

Dear Jim:

I am in receipt of your most recent set of discovery responses in this matter. While I have not completed reviewing them, I think it is important that we have a telephone conference to re-calendar the management depositions as well as confirm the availability and location for deposition of Fred Meyer's 30(b)(6) witnesses. Please have your assistant call my office to advise as to when you will be available for a teleconference.

I do think we're going to need to extend discovery out another sixty (60) days. I will prepare a Stipulation and forward it to you for approval. I assume we can then file it electronically. I look forward to hearing from you.

Sincerely,

Mark Choate
CHOATE LAW FIRM, LLC

fc: Gruenstein
cc: Client

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MAY 08 2006

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James R. Dickens
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May 5, 2006

VIA FACSIMILE (907) 586-6633 & U.S. MAIL

Mark Clayton Choate
Choate Law Firm LLC
424 North Franklin Street
Juneau, AK 99801

Subject: *Johnson v. Fred Meyer*

Dear Mark:

After checking on several days, Ken Haverkost and Dennis Affleck are available for their depositions in Portland on Thursday, May 25, 2006. Mr. Haverkost is available at 10 a.m. and Mr. Affleck whenever you complete the first deposition. If that date works for you, then I will try to coordinate other depositions for Friday, May 26, including the two former employees, Mary Lucas and Jim Hill. The Rule 36(b) witness for the computer matters should be available then, too. Please confirm that May 25 and 26, 2006, are available on your schedule.

Very truly yours,



James R. Dickens

cc: Fred Meyer Stores, Inc.

DICKENS:mm
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Exhibit 0
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